

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GENENTECH, INC.,) Case No.: C 10-2037 PVT
Plaintiff,)
v.)
THE TRUSTEES OF THE UNIVERSITY)
OF PENNSYLVANIA,)
Defendant.)
_____)

**ORDER RE PARTIES' FORM OF
PROTECTIVE ORDER**

On September 24, 2010, the parties submitted a proposed form of stipulated protective order. Some of the provisions of the proposed form of order are not acceptable to the court.¹ Rather than spend time identifying all of the problems with the proposed form of order, the court finds it more efficient to direct the parties to use the one of the court's model forms of protective order. Therefore,

IT IS HEREBY ORDERED that, no later than December 1, 2010, the parties shall submit a revised form of protective order that uses the wording of the court's model "Stipulated Protective

¹ For example, Paragraph 2.(c) of the proposed form of order purports to make it improper to designate information confidential if the information *thereafter* is disclosed by a party as a matter of right – something the designating party would have know way of predicting at the time it designates the information confidential. A more significant problem is the proposed provision in Paragraph 19 that *automatically* relieves a party of any waiver of privilege that would otherwise result from an inadvertent disclosure. Such determinations must be made based on the facts and circumstances surrounding specific inadvertent disclosures.

1 Order for Litigation Involving Patents, Highly Sensitive Confidential Information And/or Trade
2 Secrets" available in the "Forms" section of the court's website (www.cand.uscourts.gov). If the
3 parties believe that modification² of the court's model form of order is reasonably necessary for the
4 present action, they shall also submit a joint brief explaining what modification they seek, and why it
5 is reasonably necessary for the present action.

6 IT IS FURTHER ORDERED that, pending entry of the final form of protective order, the
7 handling of confidential information shall be governed by the provisions of the court's model
8 "Stipulated Protective Order for Litigation Involving Patents, Highly Sensitive Confidential
9 Information And/or Trade Secrets."

10 Dated: 11/19/10

11 
12 PATRICIA V. TRUMBULL
13 United States Magistrate Judge
14
15
16
17
18
19
20
21
22
23
24
25
26
27

28 ² As used herein, "modification" does not include merely selecting one of two or more optional provisions so long as the wording of the option selected accurately reflects the wording in the court's model form of order.